



Pre-RFR DER 2016-03

UPCOMING OPPORTUNITY

Fiscal Year 2016 Aquatic Habitat Restoration and Revitalization Priority Projects Request for Responses to be issued in May, 2016

TO ALL INTERESTED PARTIES:

The Massachusetts Division of Ecological Restoration (DER) of the Department of Fish and Game will issue a Request for Responses (RFR) in May seeking applications for aquatic habitat restoration and revitalization *Priority Projects*. Selected projects will be eligible to receive technical assistance from DER staff, technical services by qualified contractors paid for by DER, and/or direct grant funding. These projects will remain on the Priority Projects list and maintain eligibility for support until they are completed or new information warrants a revision of status. In cases where DER feels that despite high ecological value, insufficient information exists at the time of application to support a Priority Project designation, DER may assign the project Provisional Project status. In these instances, DER will work with the Lead Project Sponsor to collect necessary information to determine whether the project should receive Priority status.

No later than one year after notification of Provisional status, DER will re-assess the project and inform the Lead Project Sponsor whether the project will receive Priority Status or not.

A list and description of current DER Priority Projects is available at:

<http://www.mass.gov/eea/agencies/dfg/der/aquatic-habitat-restoration/how-we-choose-our-projects.html>

NOTE: Interested applicants are strongly encouraged to discuss potential applications with DER staff prior to the issuance of the RFR, expected on or about May 25, 2016.

Under state procurement regulations, Department of Fish & Game, and other Executive Office of Energy and Environmental Affairs (EOEEA), staff will not be able to discuss projects with the public once the RFR is issued. The RFR will be posted at the Commonwealth's procurement site, <http://www.commbuys.com> under Open Bids. Select Grants for the bid category.

Answers to frequently asked questions can be found in Attachment 1 below. Please contact Nick Wildman (617-626-1527; nick.wildman@state.ma.us) to discuss potential applications.

ELIGIBILITY

Definitions:

Restoration is defined as an action that assists in the recovery of natural aquatic ecosystems that have been degraded, altered, or destroyed. Restoration activities restore natural processes (e.g. the natural movement of water, sediment, organic matter, and organisms), reduce or remove ecosystem stressors, increase ecosystem resiliency, and are self-sustaining to the maximum extent possible.

Urban stream revitalization is defined as improving the inter-connection between water quality and quantity, aquatic ecology, physical river structure, and land use, taking into consideration the social, cultural, and economic landscape. Projects will result in habitat and ecosystem improvement and/or restoration of functions such as water quality, flood plain connectivity, and linkage between the urban corridor and the river, thus improving public access and urban vitality.

Applicant is the person or entity that submits the Priority Project application materials to DER. This may be the landowner, Lead Project Sponsor, or another entity.

Landowner is the person or entity that owns the parcel where restoration work will take place.

Lead Project Sponsor is the person or entity that is the main project proponent and will enter into a cooperative agreement with DER if the project is selected for Priority or Provisional Status. This may or may not be the same person or entity as the landowner or applicant. Designation of a Lead Project Sponsor is subject to approval by DER as part of the application review process.

Eligible Applicants:

Eligible applicants include restoration project site landowners, non-profit organizations, regional planning organizations, municipalities, and state and federal agencies. The applicant may, or may not be, the Lead Project Sponsor. This is the entity that will enter into a cooperative agreement with DER if the project is awarded Priority or Provisional status. For-profit firms which are not project site landowners are not eligible Applicants or Lead Project Sponsors.

Eligible Project Types:

Preference will be given to projects that are part of a larger restoration / revitalization plan, address causes of impairment over symptoms, result in implementation of actions that deliver significant restoration benefits, and achieve a self-sustaining long-term restoration trajectory with minimal ongoing maintenance, including the following:

- River and wetland restoration projects, including (but not limited to):
 - Dam removal
 - Re-establishing appropriate channel-forming processes
 - Stream daylighting
 - Upgrading stream crossings to improve surface hydrology and/or fish and wildlife passage (e.g., culvert and bridge replacement to meet MA Stream Crossing Guidelines)
 - Fill removal / re-grading of wetland surface
 - Riparian wetland floodplain reconnection
 - Other innovative methods to restore the ecological integrity of rivers and wetlands
- Urban river and river corridor revitalization projects, including (but not limited to):
 - Creation of natural, vegetated buffers in urban riparian corridors
 - Stream naturalization
 - Stream daylighting
 - Improved connections between communities and their rivers
 - Other innovative methods to restore the ecological integrity and community value of rivers
- In-stream flow restoration projects, including (but not limited to):

- Development of water management plans to restore more natural streamflow regimes (e.g. management of dams on recreational lakes and drinking water reservoirs, optimization of water supply sources)
- Actions that improve water conservation / reduce water consumption and withdrawals (e.g., utilizing alternative municipal water supply sources, implementing water conservation measures identified via commercial or municipal water audits, development of campaigns to reduce residential outdoor water use)

The DER is interested in supporting restoration projects that have complementary economic development components that integrate ecological health with enhanced community and economic well-being.

The DER will only support voluntary, proactive restoration projects that have no direct connection to compensatory mitigation and/or have no independent prior obligation to perform restoration/mitigation pursuant to statute, regulation, ordinance, consent decree, judgment, court order, permit condition, contract, enforcement order or other requirement of law¹.

Property Owner Support

To be eligible for Priority Project designation, applications that propose (or will eventually result in) work on one or more properties must be accompanied by a letter signed by the property owner(s) demonstrating their commitment to pursue the project's stated restoration goals and actions.

Alternatively, an application may be eligible for Priority Project designation if it includes evidence of a pending sale of the project site to an entity and includes a letter signed by that entity demonstrating their commitment to pursue the project's stated restoration goals and actions.

Commitment letters from property owners must indicate clear support for the details of the application including the identified project roles and responsibilities.

Cooperative Agreement with Lead Project Sponsor

Each application must identify a designated Lead Project Sponsor (which could be the Applicant, Landowner, or another entity) that is responsible for collaborating and communicating with DER. Once a Project is designated by DER as Priority or Provisional, DER will work with the applicant to identify a Lead Project Sponsor who commits to pursue sustained good-faith efforts to develop and implement the Project. The Lead Project Sponsor will be expected to sign a cooperative agreement with DER. The purpose of this agreement is to establish the roles and responsibilities of the two parties. Copies of these agreements may be found in Attachment 2 below and will be included in the forthcoming RFR.

APPLICATION PROCESS

Applications for Priority Project Status must meet the eligibility requirements and follow the specific format outlined in the forthcoming RFR. Applications will be evaluated by a DER application review committee. A project application will be either accepted as a Priority Project or a Provisional Project, or denied under the RFR. DER anticipates that project selections will be made within three to four months after the close of the RFR.

Review Criteria

Project applications will be reviewed by DER staff according to three main criteria:

- 1) Ecological and community benefits
- 2) Extent of local leadership and its capacity

¹ For clarification, dam owners facing a requirement from the MA Office of Dam Safety to address deficiencies or remove the dam are eligible if they commit to move forward with a dam removal.

3) Likelihood of success

Other considerations may include, but are not limited to, geographic distribution of projects, opportunities for strategic partnerships, and DER's overall project support capacity.

Application Review and Selection

For each application, DER will review the information provided and conduct a two-phase assessment. Phase 1 consists of a desktop GIS analysis, whereby the project will be reviewed together with data from MassGIS and other sources to assess the existing and potential ecological value of the project area. For Phase 2, if DER is not already sufficiently familiar with the project site, a field visit with the applicant may be arranged to inform the subsequent selection process.

A review team will then evaluate each application against the criteria above using materials supplied by the applicant as well as information from the two-part DER assessment. DER reserves the right to contact the Applicant, or project partners to obtain more information to assist in the assessment process. Application scoring will follow the scoring guide included in Attachment 2. Selections will be made by consensus of the review team with consideration of the availability of DER resources to meet the needs of the project.

ASSISTANCE FOR SELECTED PROJECTS

Once a project is selected as a Priority or Provisional Project it will be eligible to receive support that may include (1) technical assistance from DER staff (as time and resources permit), (2) technical services from consultants under contract to DER, and/or (3) grant funding. For Priority Projects, the type and level of support will be determined annually until project completion or until new information warrants a revision of project status. DER assistance for Provisional Projects will include up to one year of support for collecting information that DER needs to determine whether the project will be accepted or denied as a Priority Project: this timeline may be extended at the discretion of DER..

Examples of technical assistance that may be provided by DER staff include: planning, project scoping, partnership building, site reconnaissance survey and data collection, conceptual design consultation, fundraising support, streamflow gauging and analysis, project management support, engineering design review, permitting support and regulatory coordination, community outreach support, and monitoring plan development.

Examples of technical services that may be provided by pre-approved DER consultant contractors include: data collection and assessment, targeted feasibility studies, community-based planning, restoration conceptualization, hydrologic modeling, geotechnical studies, design, engineering, permitting, construction bid process support and/or oversight, construction oversight, and pre- and post-restoration monitoring.

Direct grant funding may be provided to the project landowner, Lead Project Sponsor, and/or other project partners to support project development and implementation.

DER will not:

1. serve as the Applicant on permit applications, or
2. hold a contract for construction work to implement a restoration project.

As part of the application, applicants must identify the entity that will serve those roles (usually the property owner).

Provisional Projects will have one year from the date of Provisional Project designation to work with DER to address the issues DER identifies as necessary to resolve in order to determine if Priority Project status will be designated. At the conclusion of the first year, if not before, DER will

determine if the identified issues have been resolved and whether or not to grant full Priority Project status.

The level of assistance DER provides to a project will be determined based on the following:

- Demonstrated need
- Timeframe and readiness of project
- Estimated cost
- Level of available contributions/funds from the sponsor and other sources
- Level of project support from the Landowner, abutters, and surrounding community
- Available DER resources: staffing and funding

DER anticipates that this will be the only request for Priority Project applications in fiscal year 2016 (July 1, 2015 to June 30, 2016). Decisions on project selection are expected to be made within three to four months following the close of the RFR. Decisions regarding Fiscal Year 2017 DER assistance for projects selected under this RFR will be determined shortly thereafter.

The maximum value awarded to each selected project will vary according to the scope and nature of the project. Direct grant funding, if provided, shall be provided on a reimbursement basis.

To discuss potential project applications, or to obtain additional program information, summaries of past Priority Projects, or a copy of this Pre-RFR or the RFR (once issued), please contact Nick Wildman, at (617) 626-1547, nick.wildman@state.ma.us, or write to Department of Fish and Game, Division of Ecological Restoration, 251 Causeway Street, Suite 400, Boston, MA 02114, Attention: Nick Wildman. Hard copies of the Pre-RFR and or RFR will only be mailed if requested.

ATTACHMENT 1 – Frequently Asked Questions

How will the Division of Ecological Restoration (DER) decide whether a project receives technical assistance, technical services, and/or funding?

DER is interested in projects that are at all stages of implementation. All priority projects will receive some level of technical assistance from DER staff, which could include assisting the project partners with project scoping, fundraising, community organizing, permitting, etc. The DER also has pre-qualified stream and wetland restoration consultants, which can be hired directly by DER to provide technical services for projects. Priority projects will be evaluated on a case-by-case basis for services from those consultants, or in some cases, direct funding, contingent on project needs and availability of funding.

What is the difference between the Applicant, the Owner, and the Lead Project Sponsor as used in this RFR?

First, it is possible that these may all be the same person or entity, or three separate people/ entities. The Applicant is the person or entity that completes the Priority Projects application and submits it to DER. The Owner is the legal owner of the parcel where restoration work would occur. In the cases of large-scale revitalization or flow restoration projects, there may be many owners and so DER allows for flexibility on the Owner-associated requirements. The Lead Project Sponsor is the person or entity that enters into the cooperative agreement with DER. Designation of a Lead Project Sponsor is subject to approval by DER as part of the application review process.

For example, it could be that a restoration project will be located principally on property owned by the Owner, but the Priority Projects application is submitted by a local non-profit (the Applicant). Once awarded Priority Project or Provisional status, DER will confer with the Owner and the Applicant to determine which would be the most appropriate Lead Project Sponsor for the cooperative agreement.

What does DER expect of the site landowner of a Priority Project?

With few exceptions, the owners of land where a restoration Priority Project action will take place are expected to assume the following responsibilities. In some cases, other project partners (e.g. local NGOs) may take on these duties with the approval of DER.

1. Stand as the Applicant on all regulatory permitting submittals.

Except in rare instances, DER will not stand as the Applicant on permit applications. Under most of the regulations that apply to restoration projects, the property owner is responsible for compliance with the permit terms and conditions regardless of who is listed as the Applicant on the permit application. As such, the efficiency of compliance is improved when the owner is directly connected to the permit issuer.

2. Be the contract holder for project implementation (i.e. construction) and engineer oversight.

In general, DER will not hold contracts with firms implementing a restoration project. From a liability and business standpoint, it is generally most appropriate for the site landowner to contract directly with the implementation firm. In addition, having the landowner contract directly with an engineer to oversee the implementation improves communication regarding critical decisions during construction. This is the preferred arrangement unless the project team identifies another appropriate entity to hold these contracts, and DER and the owner agree.

3. Assist with project fundraising.

In the course of fundraising for a restoration project, some funding opportunities are only available to site owners. In other cases, having the owner as the recipient of funds is the most efficient arrangement (e.g. for construction funding per #2 above). In these cases, it is expected that the site owner will be willing and able to assist with project fundraising as appropriate, including being the applicant for a funding opportunity.

4. Assist with public outreach.

Meeting with stakeholders and interested public during project development often provides critical insight into project details and can facilitate permitting and fundraising. Participation by the landowner and project partners is important to convey the collaborative nature of DER's restoration projects.

What should the required landowner letter of support include, and is there any example text?

Landowner letters of support for a Priority Project, should affirm the statements made in the application and confirm the roles of the applicant, landowner, and Lead project Sponsor (if identified) related to the responsibilities listed in the answers above. Of applications where the landowner proposes to offer cash or in-kind service match, the letter is a good place to include that commitment. DER does not offer example text for landowner project support letters.

What kinds of contributions have landowners and project partners made to past successful projects?

In general, each phase of the project process requires some level of financial support and work (i.e. in-kind support). There are many opportunities for financial or in-kind contributions to a project. Most physical restoration projects proceed through the following steps, each ranging in cost depending on the project scale and complexities: Feasibility (\$5,000 to \$50,000), Design (\$10,000 to \$100,000), Permitting (\$5,000 to \$40,000), Implementation (\$15,000 to \$1.5 million). In each phase, partners may need to participate in/ lead project development, coordinate meetings of the technical team, coordinate and present at public meetings, manage contracts with consultants and contractors, lead regulatory consultation, etc. All of these activities take time and effort and have associated in-kind value. Very few landowners or project team members can support the full financial and in-kind needs of a project. This is why DER asks Priority Project Applicants to describe the existing and expected resources and commitments associated with their project.

How will landowner commitment be evaluated?

Beyond the basic commitment to the landowner responsibilities above, the strength of the landowner's commitment will be assessed based on owner's letter pledging to providing financial support, providing in-kind services, appearing at public outreach forums, etc. This is evaluated in the application as well as the landowner's letter.

How many projects will be put on the list this year?

The number of projects will be determined based on project merit, the types of projects, and available resources. Applicants should be as specific as possible in describing the role they see DER playing on a given project team.

Can I submit more than one project nomination to the RFR?

Yes.

Does any funding awarded have to be spent this fiscal year?

All contracts awarding DER (state) funding will include specified dates of completion. In general, contract end dates coincide with that of the Commonwealth of Massachusetts' fiscal year which

closes annually on June 30th. Thus, a funding award for Fiscal Year 2017 would end on June 30th 2017 and require all services specified in the contract to be completed by that same date.

Will there be a yearly RFR?

Depending on program funding and workload, DER anticipates putting out an RFR once during each fiscal year. Past frequency has been on an every-other year basis.

Is a funding match required to submit a project nomination?

DER does not require your project to have other funding sources, but financial match and other forms of committed support will be considered in the proposal evaluation.

Can the Priority Projects Program provide match funding for other grants?

Support from DER can serve as match provided that a funding organization can accept state funds as a match. Use of DER support as match must be coordinated with and approved by DER.

Will a project remain on the DER Priority Projects list forever?

Projects, once selected, will remain on the list as long as they are active. The progress of all projects will be reviewed at DER at least annually. If circumstances change or it is felt that the project is no longer viable, projects may be removed from the list.

If, for example, a project is selected as a Priority Project and it is decided that the project will be awarded specific technical services, does the Applicant still need a fiscal agent even if it will not be administering funds?

DER will provide the technical services by hiring the contractor from the Ecological Restoration Technical Master Service Agreement. Thus, an Applicant would not need a fiscal agent to advance the project. However, as direct funding may be awarded during the life of a project, most often for project implementation/ construction, the application must identify the entity (Landowner, Applicant, Project Lead or other project partner as applicable) which will be able to receive and administer those funds from DER, or identify a fiscal agent for that purpose.

I have a project that is in the initial phase of development, but not ready for on the ground implementation or construction, should I still apply?

Yes, we welcome the nomination of projects in various stages of conception or implementation to the priority list. They will be evaluated by the same review criteria as other projects.

ATTACHMENT 2 – Example Cooperative Agreements

PRIORITY PROJECT COOPERATIVE AGREEMENT

between

**THE MASSACHUSETTS DEPARTMENT OF FISH & GAME
DIVISION OF ECOLOGICAL RESTORATION**

and

Lead Project Sponsor

for the

Project Name

Priority Project Designation

This document serves as a Cooperative Agreement between the Division of Ecological Restoration (DER) and the Lead Project Sponsor (the LPS) to actively pursue the goal of restoring the Project Name (the Project) as described in the Priority Project Nomination submitted by the LPS under RFR DER XXXX. By signing this Cooperative Agreement, the LPS commits to pursue good-faith and sustained efforts to develop and implement the Project, and DER commits to support the LPS in those efforts, as further described below. These commitments must be made in order for the Project to be formally designated as a Priority Project and are verified by each party's signature of this Agreement. The signatures at the bottom of this form indicate agreement with the following terms:

1. The LPS and DER commit to working collaboratively on all phases of the Project. Examples include development of a project work plan, site assessment and feasibility investigations, planning and design, permitting, fundraising, public outreach, construction activities, and monitoring. DER will provide technical and other assistance in support of the Project, in accordance with DER resources, so long as the Project remains a DER Priority Project.
2. In order to facilitate coordination on all phases of Project implementation, the LPS and DER will each designate and maintain a reliable primary contact. The primary contacts shall be responsible for maintaining regular communications on all project-related activities as well as organization and implementation of specific project related tasks.
3. The LPS and DER will coordinate on the development of a detailed project budget and the LPS will record all project related expenses for the purposes of documenting project costs, leveraging grant funds, and acquiring project funds from other sources.
4. DER will assist in project development, coordination, and implementation to the extent possible in consideration of a variety of factors, including DER budget, workload, staffing, and balancing assistance among all DER Priority and Provisional Projects.

5. DER will maintain the Project as a Priority Project through the various stages of restoration unless or until new information / data warrants a status review. All DER projects will be reviewed for their progress and Priority status at least annually. When new information or other changed conditions indicate that a project may not be feasible or is unlikely to progress to implementation, DER may re-evaluate the project, and after discussing with the LPS may remove the project from the Priority Project list, at which time, DER will notify the LPS in writing.

Nothing in this agreement shall legally obligate the Commonwealth of Massachusetts, the Executive Office of Energy and Environmental Affairs, the Department of Fish and Game, or the Division of Ecological Restoration to expend any funds or provide technical assistance in excess of current appropriations or otherwise prohibited by law or contractual agreement.

The Division of Ecological Restoration and the LPS reserve the right to terminate this Cooperative Agreement at any time, for any reason, at their sole discretion. Notice of termination of this Cooperative Agreement shall be made in writing with a minimum of 10 business days notice.

Representatives:

Signature, Authorized Representative of the LPS

Date

Signature, Hunt Durey, Deputy Director

Date

Please return the original signed and dated Cooperative Agreement to DER at the address below, and keep a copy for your records.

PROVISIONAL PROJECT COOPERATIVE AGREEMENT

between

THE MASSACHUSETTS DEPARTMENT OF FISH & GAME DIVISION OF ECOLOGICAL RESTORATION

and

Lead Project Sponsor

for the

Project Name

Provisional Project Designation

This document serves as a Cooperative Agreement between the Division of Ecological Restoration (DER) and the Lead Project Sponsor (the LPS) to actively evaluate the feasibility, costs, and benefits of restoring the Project Name (the Project) as described in the Priority Project Nomination submitted by the LPS under RFR DER XXXXX. By signing this Cooperative Agreement, the LPS commits to pursue good-faith and sustained efforts to develop the information and analyses necessary to evaluate the Project, and DER commits to support the LPS in those efforts, as further described below. DER will use the outcome of this evaluation to determine whether the Project should be granted full Priority Project status. These commitments must be made in order for the Project to be formally designated as a Provisional Project and are verified by each party's signature of this Agreement. The signatures at the bottom of this form indicate agreement with the following terms:

2. The LPS and DER commit to working collaboratively during the Provisional project evaluation period. During this period, The LPS and DER will compile additional information focused on addressing the attached outstanding questions identified during the RFR response review. The designated DER Project Manger will discuss outstanding questions with the LPS as part of initial project planning efforts.
6. In order to facilitate coordination on all phases of Project implementation, the LPS and DER will each designate and maintain a reliable primary contact. The primary contacts shall be responsible for maintaining regular communications on all project-related activities as well as organization and implementation of specific project related tasks.
7. The LPS and DER will work collaboratively to develop a project evaluation workplan.
8. DER will assist in project evaluation to the extent possible in consideration of a variety of factors, including program budget, workload, staffing, and balancing assistance among all DER Priority and Provisional Projects.
9. DER will maintain the Provisional Project status throughout the initial evaluation period. During the evaluation period, DER will determine when enough information has been developed to address the outstanding questions identified during the RFR response review. At

that time DER will either assign Priority Project status through a new Cooperative Agreement or remove the project from the Provisional Project list and deny Priority Project status. All DER projects will be reviewed for their progress and Priority status at least annually. This review will encompass the listed issues for Provisional projects as well as those that may arise over the course of the project lifetime. DER will notify the LPS of its decision in writing with a minimum of 10 business days notice.

Nothing in this agreement shall legally obligate the Commonwealth of Massachusetts, the Executive Office of Energy and Environmental Affairs, the Department of Fish and Game, or the Division of Ecological Restoration to expend any funds or provide technical assistance in excess of current appropriations or otherwise prohibited by law.

The Division of Ecological Restoration and the LPS reserve the right to terminate this Cooperative Agreement at any time, for any reason, at their sole discretion. Notice of termination of this Cooperative Agreement shall be made in writing.

Representatives:

Signature, Authorized Representative of the LPS Date

Signature, Hunt Durey, Deputy Director Date

Please return the original signed and dated Cooperative Agreement to DER at the address below, and keep a copy for your records.